

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|------------------------------|---|--------------------------------|
| 105 STREET ASSOCIATES, LLC, | : | |
| | : | |
| Plaintiff, | : | |
| | : | 05 CV 9938 (VM) (DCF) |
| -against- | : | |
| | : | |
| | : | <u>NOTICE OF MOTION</u> |
| GREENWICH INSURANCE COMPANY, | : | |
| | : | |
| Defendant. | : | |
| | : | |
| -----X | | |

PLEASE TAKE NOTICE that, upon the annexed Declaration of Brad Richards, dated March 23, 2007, and the exhibits annexed thereto; the annexed Declaration of Donald Capoccia, dated March 23, 2007, and the exhibit annexed thereto; Plaintiff's accompanying Statement Pursuant to Civil Rule 56.1; Plaintiff's accompanying Memorandum of Law; and upon all prior papers, pleadings and proceedings heretofore had, served and/or filed herein, the undersigned will move this Court, before the Honorable Victor Marrero, United States District Judge, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, pursuant to the briefing schedule set by Judge Marrero, for an Order pursuant to Fed. R. Civ. P. 56:

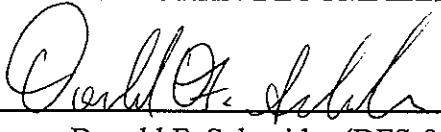
- (a) Granting summary judgment in favor of Plaintiff and against Defendant on the First and Second Causes of Action contained in the Complaint;
- (b) Granting summary judgment in favor of Plaintiff and against Defendant on the issue of liability on the Third Cause of Action of the Complaint, and setting the matter down for a determination of the amount of damages; and
- (c) Granting such other and further relief as to this Court may seem

just and proper.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to the briefing schedule set by the Court, answering papers, if any, are required to be served so as to be received by Plaintiff's counsel by April 27, 2007.

Dated: New York, New York
April 6, 2007

SCHNEIDER GOLDSTEIN BLOOMFIELD LLP

By: 
Donald F. Schneider (DFS-9886)

Attorneys for Plaintiff
Office Address and P.O. Box:
90 Broad Street, 6th Floor
New York, New York 10004
Tel.: (212) 265-2266
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STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

GAYLE KAPLAN, being duly sworn, deposes and says:

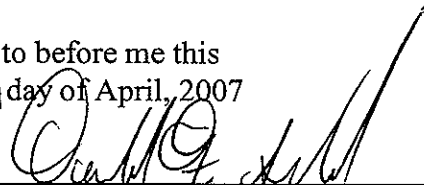
Deponent is not a party to the action, is over 18 years of age and resides in Brooklyn, New York.

On April 12, 2007, deponent served the within Notice of Motion, Plaintiff's Statement Pursuant to Civil Rule 56.1, Declaration of Donald Capoccia in Support, Declaration of Brad Richards in Support and Plaintiff's Memorandum of Law in Support of Motion For Summary Judgment upon Wilson, Elser, Moskowitz, Edelman & Dicker LLP, attorneys for the defendant, at 150 East 42nd Street, New York, New York 10017, by causing a true copy of same to be delivered by Federal Express for next day delivery.



GAYLE KAPLAN

Sworn to before me this
12th day of April, 2007



Notary Public

DONALD F. SCHNEIDER
Notary Public, State of New York
No. 02SC6034524
Qualified in Westchester County
Commission Expires: Dec. 13, 2009